

Immigration Amendment Bill

Government Bill

As reported from the committee of the whole House

This bill was formerly part of the Courts and Criminal Matters Bill as reported from the Law and Order Committee. The committee of the whole House has further amended the bill and has divided it into the following bills:

- The Crimes Amendment Bill, comprising Part 1
 - The Customs and Excise Amendment Bill, comprising Part 2
 - The District Courts Amendment Bill (No 2), comprising Part 3
 - This bill, comprising Part 4
 - The Misuse of Drugs Amendment Bill, comprising Part 5
 - The Privacy Amendment Bill, comprising Part 6
 - The Sentencing Amendment Bill, comprising Part 7
 - The Summary Proceedings Amendment Bill, comprising Part 8
 - The Tax Administration Amendment Bill, comprising Part 9
-

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

Subject to this Act,

Text struck out unanimously

New (unanimous)

Subject to this Act,

Text inserted unanimously

As reported from the committee of the whole House

Struck out

Subject to this Act,

Text struck out

New

Subject to this Act,

Text inserted

~~(Subject to this Act,)~~

Words struck out

Subject to this Act,

Words inserted

Hon Rick Barker

Immigration Amendment Bill

Government Bill

Contents

	Page
1 Title	1
2 Commencement	1
2A Principal Act amended	1
.	
15 New sections 141AD to 141AG inserted	4
141AD Interpretation	4
141AE Disclosure of immigration information for fines enforcement purposes	5
141AF No Crown liability to third parties for fines enforcement action	6
141AG Chief Executive of Department of Labour may supply information concerning specified fines defaulters to commercial carriers	7
.	

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Immigration Amendment Act **2005**.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent. 5
- 2A Principal Act amended**
This Act amends the Immigration Act 1987.

Struck out (unanimous)

15 New sections 141AC to 141AE inserted

The principal Act is amended by inserting, after section 141AB, the following sections:

“141AC Interpretation 5

In **sections 141AD and 141AE**, unless the context otherwise requires,—

“**authorised officer** means any officer, employee, or agent of the Department who is authorised by the chief executive of the Department to supply information to, or receive information from, the Secretary of Labour under **section 141AD** 10

“**Department** means the Department for Courts or other department of State that, with the authority of the Prime Minister, is for the time being responsible for the enforcement of fines 15

“**fine** means—

“(a) a fine within the meaning of section 79 of the Summary Proceedings Act 1957:

“(b) a fine or other sum of money to which any of sections 19 to 19E of the Crimes Act 1961 applies: 20

“(c) a fine to which any of sections 43 to 46 of the Misuse of Drugs Amendment Act 1978 applies

“**fining enforcement action** includes the execution of a warrant to arrest that person

“**identifying information** means personal information that identifies an individual, which may include the individual’s passport number 25

“**serious default**, in relation to a person, means that—

“(a) the person owes an amount of not less than \$1,000 (or any other amount that may be fixed by the Governor-General by Order in Council) in relation to 1 or more unpaid fines; and 30

“(b) a warrant to arrest the person has been issued for non-payment of the whole, or of any part, of any fine; and

“(c) the warrant has not been withdrawn or executed. 35

Struck out (unanimous)**“141AD Disclosure of immigration information for fines enforcement purposes**

- “(1) The purpose of this section is to facilitate the exchange of information between the Department of Labour and the Department for the purposes of enabling the Department— 5
- “ (a) to locate any person who is in serious default in the payment of any fine; and
- “ (b) to take appropriate fines enforcement action against that person.
- “ (2) For the purpose of this section, an authorised officer may supply to the Secretary of Labour any identifying information about a person who is in serious default. 10
- “ (3) If, in relation to a person who is in serious default, identifying information is supplied in accordance with **subsection (2)**, the Secretary of Labour may compare that information with any information held by the Department of Labour that relates to that person. 15
- “ (4) If the Department of Labour has immigration information relating to a person who is in serious default, the Secretary of Labour may, for the purpose of this section, supply to an authorised officer any of the following information relating to that person held by the Department of Labour: 20
- “ (a) the person’s full name:
- “ (b) any aliases known to be used by the person:
- “ (c) the person’s date of birth: 25
- “ (d) the person’s sex:
- “ (e) the person’s nationality:
- “ (f) the person’s address (if known):
- “ (g) the person’s occupation (if known):
- “ (h) the expiry date of any permit granted to the person (if applicable): 30
- “ (i) the date that the person is expected to return to New Zealand (if applicable).
- “ (5) The Secretary of Labour and the chief executive of the Department may, for the purpose of this section, determine by agreement between them— 35
- “ (a) the frequency with which information may be supplied; and

Struck out (unanimous)

- “(b) the form in which information may be supplied; and
 “(c) the method by which information may be supplied.

“141AE No Crown liability

The Crown is not liable to any person for any loss or damage suffered as a result of, or in connection with, the execution of a warrant to arrest a person who is in serious default immediately—

- “(a) after the arrival of that person in New Zealand; or
 “(b) before the departure of that person from New Zealand.”

New (unanimous)**15 New sections 141AD to (~~141AF~~) 141AG inserted**

The following sections are inserted after section 141AC:

“141AD Interpretation

In **sections 141AE and 141AF**, unless the context otherwise requires,—

“**authorised officer** means any officer, employee, or agent of the Department who is authorised by the chief executive of the Department to supply information to, or receive information from, the Secretary of Labour under **section 141AE**

“**Department** means the Ministry of Justice or other department of State that, with the authority of the Prime Minister, is for the time being responsible for the enforcement of fines

“**fine** means—

“(a) a fine within the meaning of section 79 of the Summary Proceedings Act 1957 or an amount of reparation:

“(b) a fine or other sum of money to which any of sections 19 to 19E of the Crimes Act 1961 applies:

“(c) a fine to which any of sections 43 to 46 of the Misuse of Drugs Amendment Act 1978 applies

“**finances enforcement action** includes the execution of a warrant to arrest a person (~~for~~) in respect of the non-payment of the whole, or of any part, of any fine

New (unanimous)

“**identifying information** means personal information that identifies an individual, which may include the individual’s passport number

“**reparation** means—

- “(a) any amount that is required to be paid under a sentence of reparation; or 5
- “(b) any amount that is required to be paid under any order of reparation as defined in **section 145D** of the Sentencing Act 2002

“**serious default**, in relation to a person, means that— 10

- “(a) the person owes—
- “(i) an amount of \$1,000 (or any other lesser amount that may be fixed by the Governor-General by Order in Council) or more in relation to 1 or more unpaid fines (other than an amount of reparation); 15
- or
- “(ii) any amount of reparation; and
- “(b) a warrant to arrest the person has been issued (for) in respect of the non-payment of the whole, or of any part, of any (fine) amount referred to in **paragraph (a)**; and 20
- “(c) the warrant has not been withdrawn or executed.

“141AE Disclosure of immigration information for fines enforcement purposes

- “(1) The purpose of this section is to facilitate the exchange of information between the Department of Labour and the Department to enable— 25
- “(a) the Department to locate any person who is in serious default in the payment of any fine; and
- “(b) appropriate fines enforcement action to be taken against that person. 30
- “(2) For the purpose of this section, an authorised officer may supply to the Secretary of Labour any identifying information about a person who is in serious default.
- “(3) If, in relation to a person who is in serious default, identifying information is supplied in accordance with **subsection (2)**, the Secretary of Labour may compare that information with any 35

New (unanimous)

information held by the Department of Labour that relates to that person.

- “(4) If the Department of Labour has immigration information relating to a person who is in serious default, the Secretary of Labour may, for the purpose of this section, supply to an authorised officer any of the following information relating to that person held by the Department of Labour: 5
- “(a) the person’s full name:

Struck out

“(b) any aliases known to be used by the person:

- “(c) the person’s date of birth: 10
- “(d) the person’s sex:
- “(e) the person’s nationality:
- “(f) the person’s address (if known):
- “(g) the person’s occupation (if known):
- “(h) the expiry date of any permit granted to the person (if applicable): 15
- “(i) the date that the person is expected to return to New Zealand (if applicable).
- “(5) The Secretary of Labour and the chief executive of the Department may, for the purpose of this section, determine by agreement between them— 20
- “(a) the frequency with which information may be supplied; and
- “(b) the form in which information may be supplied; and
- “(c) the method by which information may be supplied. 25

“141AF No Crown liability to third parties for fines enforcement action

- “(1) This section applies to the taking of any fines enforcement action against a person who is alleged to be in serious default (the **alleged defaulter**), or to the questioning of any alleged defaulter with a view to taking any fines enforcement action, immediately— 30

New (unanimous)

- “(a) after the arrival of the alleged defaulter in New Zealand;
or
“(b) before the departure of the alleged defaulter from New Zealand.
- “(2) The Crown is not liable to any person (for example, an airline operator or a passenger on an airline) for any loss or damage caused as a result of, or in connection with, the actions described in **subsection (1)** unless the person or persons taking those actions, or any employee of the Crown performing any function directly or indirectly connected with those actions, has not acted in good faith or has been grossly negligent.
- “(3) Nothing in **subsection (2)** applies to or affects any question of the liability of the Crown to the alleged defaulter.

New

- “141AG Chief executive of Department of Labour may supply information concerning specified fines defaulters to commercial carriers**
- “(1) This section applies if information is supplied to the chief executive under **section 280F(1)** of the Customs and Excise Act 1996.
- “(2) The chief executive may supply the information to any person or persons concerned with the movement of persons out of New Zealand.
- “(3) The information given under **subsection (2)**—
“(a) may be given in any form and by any method that the chief executive thinks appropriate; and
“(b) may, in whole or in part, be in the form of a code representing the information.
- “(4) In this section,—
“**person concerned with the movement of persons out of New Zealand** means an owner or an operator of a craft that carries persons from New Zealand to a point outside New

New

Zealand, for commercial purposes, or the agent of an owner or operator of that kind

“**specified fines defaulter** has the meaning given to it by **section 280F** of the Customs and Excise Act 1996.”

5

Legislative history

28 March 2006

Divided from the Courts and Criminal Matters Bill
(Bill 41-2) as Bill 41-3D

